

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHANELLE ZIMMERMAN,  
BARBARA STEETLE, ROBERT  
WARUSZEWSKI, WENDY  
MARSHALL, ANGELA  
HOLLANDSWORTH, and KEVIN  
HARRISON individually, and on  
behalf of all others similarly situated,

Plaintiffs,

vs.

HIGHMARK, INC., a Pennsylvania  
Corporation,

Defendant.

Case No. 2:23-cv-250-NR

**ORDER**

**AND NOW**, this **28th day of April, 2025**, for the reasons stated in the foregoing Opinion, the Court **GRANTS IN PART and DENIES IN PART** Defendant's motion to dismiss (ECF 35) Plaintiffs' consolidated amended complaint (ECF 18). The Court:

- (1) **DENIES** Defendant's motion to dismiss for lack of standing;
- (2) **DENIES** Defendant's motion to dismiss Count I;
- (3) **GRANTS** Defendant's motion to dismiss Count II, without prejudice to Plaintiffs raising their negligence *per se* theory as part of Count I;
- (4) **GRANTS** Defendant's motion to dismiss Count III;
- (5) **GRANTS** Defendant's motion to dismiss Count IV;
- (6) **DENIES** Defendant's motion to dismiss Count V;
- (7) **DENIES** Defendant's motion to dismiss Count VI; and
- (8) **DENIES** Defendant's motion to dismiss Count VII.

Counts II and IV are dismissed with prejudice, as amendment would be futile. Count III is dismissed without prejudice, and with leave to amend. An amended complaint to address the deficiencies with respect to Count III must be filed within

14 days of this order, or else the Court will convert that dismissal to one with prejudice.

BY THE COURT:

/s/ J. Nicholas Ranjan  
United States District Judge